

which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation considering that it relates to the promulgation of operating regulations or procedures for drawbridges. Under figure 2–1, paragraph (32)(e), of the Instruction, an “Environmental Analysis Check List” and a “Categorical Exclusion Determination” are not required for this rule.

#### List of Subjects in 33 CFR Part 117

Bridges.

#### Regulations

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 33 CFR 1.05–1(g); Department of Homeland Security Delegation No. 0170.1; section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. From April 1, 2006 through June 30, 2006, § 117.205 is amended by suspending paragraph (c) and adding a temporary paragraph (d) to read as follows:

#### § 117.205 Connecticut River.

\* \* \* \* \*

(d) The draw of the Route 82 Bridge, mile 16.8, at East Haddam, shall open on signal at 5:30 a.m., 1:30 p.m., and 8 p.m., daily. The draw shall open on signal for commercial vessels at any time after at least a 24-hour advance notice and a 2-hour confirmation is given by calling the number posted at the bridge.

Dated: March 28, 2006.

**David P. Pecoske,**

*Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.*

[FR Doc. 06–3287 Filed 4–5–06; 8:45 am]

**BILLING CODE 4910–15–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD01–05–096]

RIN 1625–AA09

#### Drawbridge Operation Regulations: Cheesequake Creek, NJ

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard has changed the regulation that governs the operation of the S35 Bridge across Cheesequake Creek, mile 0.0, at Morgan, South Amboy, New Jersey. This final rule would allow the bridge owner to require mariners to provide a two hour notice for bridge openings between 11 p.m. and 7 a.m. year round and all day from December 1 through March 31. This final rule is expected to better meet the present and the anticipated needs of navigation.

**DATES:** This rule is effective May 8, 2006.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01–05–096) and are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts 02110, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gary Kassof, Bridge Administrator, First Coast Guard District, (212) 668–7165.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory History

On November 22, 2005, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; Cheesequake Creek, New Jersey, in the **Federal Register** (70 FR 70563). We received no comments in response to the notice of proposed rulemaking. No public hearing was requested and none was held.

##### Background and Purpose

The S35 Bridge has a vertical clearance of 25 feet at mean high water and 30 feet at mean low water in the closed position. The existing drawbridge operation regulations are listed at 33 CFR § 117.709(a).

The existing regulations, promulgated on April 20, 2005, (70 FR 20464), require the S35 Bridge to operate as follows:

From May 1 through October 31, from 7 a.m. to 8 p.m., the draw need only open on the hour. From 8 p.m. to 11 p.m. the draw shall open on signal. From 11 p.m. to 7 a.m. the draw shall open after at least a four hour advance notice is given. From November 1 through April 30 the draw shall open on signal after at least a four hour advance notice is given.

Subsequent to the publication of that final rule (70 FR 20464), the Coast Guard was contacted by several mariners and a local official advising that the four hour advance notice required by the new rule was problematic and that consideration should be given to changing that rule.

After a meeting with the mariners and local officials the Coast Guard decided to publish a notice of proposed rulemaking (NPRM) to further change the drawbridge operation regulations for the S35 Bridge.

On November 22, 2005, the above NPRM (70 FR 70563) was published. It proposed that a two hour notice for bridge openings be required during the times the bridge is not normally crewed instead of the four hour notice in the existing rule, and also proposed changing the all day advance notice for bridge openings from November 1 through April 30, to December 1 through March 31.

##### Discussion of Comments and Changes

The Coast Guard received no comments in response to the notice of proposed rulemaking and as a result, no changes have been made to this final rule.

##### Regulatory Evaluation

This rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3), of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not “significant” under the regulatory policies and procedures of the Department of Homeland Security (DHS).

This conclusion is based on the fact that the bridge will open during times the bridge is not normally crewed after a two hour advance notice instead of a four hour advance notice which is required by the existing regulations.

##### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities.

The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b), that this rule will not have a significant economic impact on a substantial number of small entities.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

No small entities requested Coast Guard assistance and none was given.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

#### Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

#### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the

effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these

standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e) of the Instruction, from further environmental documentation considering that it relates to the promulgation of operating regulations or procedures for drawbridges. Under figure 2–1, paragraph (32)(e), of the instruction, an “Environmental Analysis Check List” and a “Categorical Exclusion Determination” are not required for this rule.

#### List of Subjects in 33 CFR Part 117

Bridges.

#### Regulations

■ For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 33 CFR 1.05–1(g); Department of Homeland Security Delegation No. 0170.1; section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. Section 117.709 is amended by revising paragraph (a) to read as follows:

#### § 117.709 Cheesequake Creek.

(a) The draw of the S35 Bridge, at mile 0.0, at Morgan, South Amboy, New Jersey, shall operate as follows:

(1) From April 1 through November 30 from 7 a.m. to 8 p.m., the draw need only open on the hour. From 8 p.m. to 11 p.m. the draw shall open on signal.

From 11 p.m. to 7 a.m. the draw shall open after at least a two hour advance notice is given by calling the number posted at the bridge.

(2) From December 1 through March 31, the draw shall open on signal after at least a two hour advance notice is given by calling the number posted at the bridge.

\* \* \* \* \*

Dated: March 21, 2006.

**David P. Pekoske,**

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 06-3245 Filed 4-5-06; 8:45 am]

BILLING CODE 4910-15-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 63**

[EPA-HQ-OAR-2004-0019, FRL-8054-5]

RIN 2060-AK10

**National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations)**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final decision; and final rule, amendment.

**SUMMARY:** On December 14, 1994, we promulgated National Emission Standards for Gasoline Distribution

Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations). Section 112(f)(2) of the Clean Air Act directs us to assess the risk remaining (residual risk) after the application of national emission standards controls for hazardous air pollutants. Also, section 112(d)(6) requires us to review and revise the national emission standards as necessary by taking into account developments in practices, processes, and control technologies. On August 10, 2005, we proposed not to revise the national emission standards based on our residual risk assessment and technology review. This action finalizes that decision not to revise the national emission standards and amends a reference error.

**DATES:** This final decision and final rule amendment is effective on April 6, 2006.

**ADDRESSES:** We have established a docket for this action under Docket ID No. EPA-HQ-OAR-2004-0019. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the index, some information is not publicly available, e.g., confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov>

or in hard copy at the Air and Radiation Docket, EPA/DC, EPA West, Room B-102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air and Radiation Docket is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:**

*General and Technical Information.* Mr. Stephen Shedd, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Coatings and Chemicals Group (E143-01), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-5397, facsimile number (919) 685-3195, electronic mail (e-mail) address: [shedd.steve@epa.gov](mailto:shedd.steve@epa.gov).

*Residual Risk Assessment Information.* Mr. Ted Palma, Office of Air Quality Planning and Standards, Health and Environmental Impacts Division, Sector Based Assessment Group (C539-02), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-5470, facsimile number (919) 541-0840, electronic mail (e-mail) address: [palma.ted@epa.gov](mailto:palma.ted@epa.gov).

**SUPPLEMENTARY INFORMATION:**

*Regulated Entities.* The regulated categories and entities affected by the national emission standards include:

Category	NAICS <sup>a</sup>	(SIC <sup>b</sup> )	Examples of regulated entities
Industry .....	324110 493190 486910 424710	(2911) (4226) (4613) (5171)	Operations at major sources that transfer and store gasoline, including petroleum refineries, pipeline breakout stations, and bulk terminals.
Federal/State/local/tribal governments			

<sup>a</sup>North American Industry Classification System.  
<sup>b</sup>Standard Industrial Classification.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by the national emission standards. To determine whether your facility would be affected by the national emission standards, you should examine the applicability criteria in 40 CFR 63.420. If you have any questions regarding the applicability of the national emission standards to a particular entity, consult either the air permit authority for the entity or your EPA regional representative as listed in 40 CFR 63.13.

*World Wide Web (WWW).* In addition to being available in the docket, an electronic copy of today's final decision

will also be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of the final decision will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at the following address: <http://www.epa.gov/ttn/oarpg/>. The TTN provides information and technology exchange in various areas of air pollution control.

*Judicial Review.* Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of this final decision is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by June 5, 2006. Under section

307(d)(7)(B) of the CAA, only an objection to a rule or procedure raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by the final decision may not be challenged separately in civil or criminal proceedings brought to enforce these requirements.

Section 307(d)(7)(B) of the CAA further provides that "[o]nly an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review." This